



(Unofficial Translation)

Phnom Penh, 08 December 2021

INSTRUCTION

ON

IMPLEMENTING THE VALUE ADDED TAX ON E-COMMERCE TRANSACTIONS

In accordance with the Sub-Decree No. 65 ANKr.BK dated 08 April 2021 on Implementing the Value Added Tax (VAT) on E-Commerce and Prakas No. 542 MEF.PK dated 08 September 2021 on the Rules and Procedures for the Implementing the VAT on E-Commerce Transactions and with the purpose to ensure the efficiency, effectiveness, transparency, and to facilitate the taxpayers in fulfilling their tax obligations fairly and effectively pursuant to the tax provisions in force, the General Department of Taxation (GDT) thereby issues the following instructions:

I. The Scope of Implementing the Sub-Decree No. 65 ANKr.BK and Prakas No. 542 MEF.PK

1. Taxable Supply

Sub-Decree No. 65 ANKr.BK and Prakas No. 542 MEF.PK shall apply to the commercial transactions via an electronic system, supplying digital goods or services or any e-commerce activity by taxable persons who are non-resident taxpayers, including electronic platform operators, who do not have permanent establishments in the Kingdom of Cambodia, from the outside of the Kingdom of Cambodia to the resident persons who are enterprise taxpayers in the Self-Assessment Taxpayer or/and physical persons in the Kingdom of Cambodia. Electronic platform operators refer to non-resident taxpayers who supply services, receive payment, and deliver digital goods or services to purchasers via the electronic platforms on behalf of non-resident suppliers via electronic system.

Whereas e-commerce activities or transactions conducting within the Kingdom of Cambodia by resident taxpayers are not in the scope of implementing this instruction but shall comply with the relevant tax law and regulations in force.

2. Non-Taxable Supply

The supply of digital goods or services or any e-commerce activity of goods or services as stipulated in the Article 57 of the Law on Taxation is considered as a non-taxable supply.

II. Obligation and Process of Simplified VAT Registration

1. Obligation for Simplified VAT Registration

According to the paragraph 1 of the Article 11 of Prakas No. 542 MEF.PK, a non-resident taxpayer who supplies digital goods or services or any e-commerce activity being made from the outside of the Kingdom of Cambodia into the Kingdom of Cambodia shall be obliged to comply with the following:

- A- Shall complete the Simplified VAT Registration within 30 days after having had the estimated annual turnover from 250 million Riel or more or expect to have the turnover from 60 million Riel or more within any 3-month-consecutive turnover period completed in the current calendar year;
- B- Whereas non-resident taxpayers who have been operating the supply of digital goods or services, and have the estimated annual turnover from 250 million Riel starting from 01 January to 31 December 2021 shall complete the Simplified VAT Registration by 31 December 2021.

2. Procedures to apply for the Simplified VAT Registration

The application for the Simplified VAT Registration, a non-resident taxpayer can use the services of registered Tax Service Agent in the Kingdom of Cambodia to facilitate this registration.

The Simplified VAT Registration can be done via e-registration or via on-site registration at the GDT and can be filled out the application in Khmer language or in English language as following:

A- E-registration

To complete the Simplified VAT Registration, a non-resident taxpayer shall apply as below:

- To use the online system of the GDT, the user shall register his/her name for use in the system via website <https://www.tax.gov.kh/en/e-service>, by keying in the required relevant information in a complete and proper manner. The user will then receive the Username and Password being sent to user's e-mail address when the required information is correct and complete;
- Select the Simplified VAT Registration system;
- Fill out the required relevant information in the Simplified VAT Registration application via digital form NR-76;
- Scan the required relevant documents and attach files as required in the checklist specifying in the application, and print out the Simplified VAT Registration application;
- Pay the service fees for the registration and await the decision of the GDT.

B- On-site Registration at the GDT

To complete the Simplified VAT Registration, a taxpayer shall apply as below:

- Download the Simplified VAT Registration application for non-resident taxpayer in PDF form from the GDT's website <https://www.tax.gov.kh> or obtain the Simplified VAT Registration application form from the registration service counter at the GDT;
- Fill out the application form in the complete and correct manner, then the non-resident taxpayer shall pay the registration fees and submit the completed application form at the registration service counter at the GDT, attaching all the required relevant documents in a complete and proper manner as specified in the application form;
- Obtain the receipt of the submission of the Simplified VAT Registration application once all the required attached documents are completely and properly provided as specified in this application.

3. The Required Documents for Simplified VAT Registration

The required documents for the Simplified VAT Registration are as below:

- Application form for the Simplified VAT Registration;
- Registration certificate of the non-resident taxpayer;
- The valid identified documents of the owner or representative (Identity Card or Passport);
- Two current passport size photos of the director or representative taken within the last 3 months in the size of 35 x 45 mm with a white background;
- A letter certified the non-resident taxpayer's bank account information issued by or printed out from the bank.

These above required documents can be used in a foreign language accompanied by the translated Khmer language or English language version.

4. Service Fees for Registering and Updating the Information of a Taxpayer

- A- 400,000 Riel for the Simplified VAT Registration;
- B- 200,000 Riel for updating the information of a taxpayer:
 - Enterprise's name;
 - Address;
 - Management composition.

5. Duration of Service Providing for the Simplified VAT Registration or the update of Information

The taxpayer can get the approval of the Simplified VAT Registration or the update of information within 7 to 10 working days.

6. Official Documents to Certify the Simplified VAT Registration or the update of Information

Official documents to certify the Simplified VAT Registration or the updated information that the GDT shall provide to the taxpayer are as below:

- A- Certificate of the Simplified VAT Registration;
- B- Tax registration card;
- C- Letter of notification of the tax obligation.

For the Simplified VAT Registration via an electronic system, the official documents for registration shall be provided via an electronic system in the digital forms (PDF).

7. Rights and Power of the Tax Administration on the Simplified VAT Registration

GDT has the rights to determine the Simplified VAT Registration unilaterally if the taxpayer failed to register or failed to register after the invitation by the GDT, based on the information and data that GDT has had.

8. Change of Information of Taxpayer

The non-resident taxpayer who wishes to change the information as stated in point 4 of Section II of this instruction shall apply for the updating of the information by filling in the necessary information and attaching all the latest related documents certifying those changes of the information as specified in the Simplified VAT Registration application form NR-76.

III. Obligation to File, Pay VAT And to Reports

1. Due Time of Supply for VAT

The VAT becomes due and payable at the time of the supply of digital goods or services. The time of supply of the digital goods or services shall be determined as follows:

- A- For the non-resident taxpayer, the time of supply of the digital goods or services is the prior time of any other times which invoice is issued or the time which digital goods are delivered or digital services are completed or the payment is received;
- B- For the resident self-assessment taxpayer who received the supply of the digital goods or services or any e-commerce activity that charged tax on behalf of the non-resident supplier, the time of the supply is the prior time of any other times which the digital goods are received or digital services are completed or the payment is due or paid.

2. Filing of the Tax Return and Monthly VAT Payment

- A- The non-resident taxpayer who supplies the digital goods or services or any e-commerce activity from the outside of the Kingdom of Cambodia to customers inside the Kingdom of Cambodia shall have the obligation to collect 10 % VAT amounts from the resident persons who are not the registered self-assessment taxpayer, and shall file the tax return of VAT monthly via the form NR-VAT01, together with the filling out the detailed information in Appendix 01, and shall pay the 10% VAT amounts to the GDT. As for the supply of digital goods or services or any e-commerce activity to a resident taxpayer who is a registered self-assessment taxpayer and made the payment via his/her own bank account and name of the enterprise, the non-resident taxpayer shall not collect VAT to pay to the GDT but shall have the obligation to fill out the detailed information in Appendix 02 of the VAT tax return using form NR-VAT 01 to submit to the GDT. In case the resident taxpayer is a registered self-assessment taxpayer who does not make payment to the supplier via his/her own bank account and the name of the enterprise shall be considered as a non-registered self-assessment taxpayer; thus, the non-resident supplier shall have the obligation to collect VAT as well. For those using the manual filing method, the obligations to file the tax return and to pay VAT monthly shall be completed by the 20th of the following month of the supply or by the 25th of the following month of such a supply for those using e-filing and e-payment method;
- B- The resident self-assessment taxpayer who receives the supply of digital goods or services or any e-commerce activity from the non-resident taxpayer shall collect the 10% VAT amounts using the Reverse Charge mechanism and shall file the tax return using form NR-VAT 02 together with the filling out of the detailed information in Appendix 01 and Appendix 02 of this form and shall pay the 10% VAT amounts monthly to the GDT by the 20th of the following month after receiving the supply for those using the manual filing method or by the 25th of the following month after the month of receiving the supply for those using e-filing and e-payment method;

- C- The registered self-assessment taxpayer who is a small taxpayer shall be exempted from the Reverse Charge mechanism of the 10% VAT obligation for the period of 5 years starting from 08 September 2021.

IV. Invoicing

A non-resident taxpayer who supplies the digital goods or services or any e-commerce activity from the outside of the Kingdom of Cambodia to a customer inside the Kingdom of Cambodia shall have the obligations as following:

1. To issue the invoice to the resident person who is not a registered self-assessment taxpayer, the invoice shall consist of:

- Name of the enterprise and the Identification Number of the Simplified VAT Registration;
- Invoice number;
- Date of the issued invoice;
- Address: Cambodia and E-mail of the customer;
- List of goods or services;
- Unit;
- Unit price;
- Total price.

2. To issue the invoice to the taxpayer in the Self-Assessment Taxpayer, the invoice shall consist of:

- Name of the enterprise and the Identification Number of the Simplified VAT Registration;
- Invoice number;
- Date of the issued invoice;
- Name of the enterprise and the Tax Identification Number of the customer;
- Address: Cambodia and E-mail of the customer;
- List of goods or services;
- Unit;
- Unit price;
- Total price.

V. Exchange Rate for VAT Calculation

1. Non-resident taxpayer shall file the tax return and pay the 10% VAT amounts in Khmer Riel currency. In the case of receiving the payment from the supply of the digital goods or services via an electronic system in other foreign currencies that are different from Khmer Riel currency, the non-resident taxpayer shall file the tax return by attaching with each Appendix in Khmer Riel currency, using the official exchange rate published by the National Bank of Cambodia on the last day of working days of the month of supply via the website https://www.nbc.org.kh/english/economic_research/exchange_rate.php

2. The registered self-assessment taxpayer that charges the 10% VAT using the Reverse Charge mechanism shall file the tax return and pay VAT amounts in Khmer Riel currency in accordance with the Instruction No. 27617 GDT dated 12 December 2019 of the GDT.

VI. Means of VAT Payment

VAT payment shall be made via local partner banks of the GDT and all the expenses incurred due to VAT payment are the burdens of the non-resident taxpayer. The non-resident taxpayer can pay the 10% VAT amounts via the following means:

1. Pay the 10% VAT amounts directly to the local partner banks of the GDT in cash or via e-payment for the local payment. The Payment via this mean, the taxpayer can use representative or any registered Tax Service Agent to arrange and make payment on their behalf to the GDT.
2. Use a credit card or debit card.
3. Transfer the VAT amounts from overseas bank account to the account of the GDT via the appointed local partner banks as specified the detailed information of bank accounts of the GDT in the attached list.

The 10% VAT payment made by a non-resident taxpayer to the bank account of the GDT via the above specified mean number 2 and mean number 3 may take a bit longer time to complete the payment, and as such it is recommended to process the payment at least 1 week earlier before the due date to avoid any relevant penalties for the late payment. For cash payment however, the GDT allows to delay the payment of the 10% VAT to the account of the GDT up to 3 days after the due deadline of the filing of the tax return and the paying of the VAT amounts for the non-resident taxpayer.

VII. Penalties

A taxable person as stated in Article 3 of Prakas No. 542 MEF.PK dated 08 September 2021 on the Rules and Procedures for Implementing the VAT on E-Commerce Transactions, who failed to register or failed to update the information, or failed to file the tax return and pay the due VAT amounts to the GDT shall be subject to the penalties as stipulated in the tax law and regulations in force.

VIII. Procedures for the Management and Control

1. Management and Control

- A- The non-resident taxpayers who supply digital goods or services or any e-commerce activity into the Kingdom of Cambodia shall be under the management of Department of Large Taxpayers of the GDT;
- B- The non-resident taxpayers shall be subject to the verification for the fulfillment of the obligation to file the tax return and to pay 10% VAT amounts through information cross checking.

2. Complaint of the Non-Resident Taxpayer

A non-resident taxpayer who disagrees with the decision of the tax administration shall file a complaint to the GDT.

3. Business Cessation

In case a non-resident taxpayer who attempts to cease the supplying of digital goods or services or any e-commerce activity via an electronic system into the Kingdom of Cambodia shall pay all the outstanding VAT liability amounts that have not been paid before applying for the Simplified VAT De-Registration and submit the request letter to the GDT within 15 days after the complete cessation of the supply of digital goods or services or any e-commerce activity into the Kingdom of Cambodia.

4. Effective Date

In order to provide a sufficient time to the taxable persons to become well aware and to be well-prepared to effectively implement the Prakas No. 542 MEF.PK dated 08 September 2021 on the Rules and Procedures for Implementing the VAT on E-Commerce Transactions, the Minister of Economy and Finance has decided to allow the delay in the implementation of this Prakas until 31 December 2021.

The GDT firmly expects all the non-resident taxpayers who supply digital goods or services or any e-commerce activity into the Kingdom of Cambodia and the self-assessment taxpayers who receive the supply of digital goods or services or any e-commerce activity from the non-resident taxpayers to effectively follow the spirit of this instruction.

Minister attached to the Prime Minister
Delegate of the Royal Government in Charge as
Director General of General Department of Taxation

(Signature and seal)

Kong Vibol